

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## ASSEMBLY BILL

**No. 1079**

**Introduced by Assembly Member Bermudez**

February 20, 2003

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An act to amend Sections 9880.1, ~~9882, 9882.5, and 9884.7~~ and 9882 of the Business and Professions Code, relating to automotive repair.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1079, as amended, Bermudez. Automotive repair.

Existing law, the Automotive Repair Act, establishes a Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and ~~authorizes the director to adopt regulations to implement its provisions. Under the act, the director may take disciplinary action against an automotive repair dealer for specified acts of misconduct if the dealer cannot show a bona fide error, and the director may suggest measures to compensate for damages resulting from a violation of the act or adopted regulations defines various terms for its purposes.~~

This bill would ~~specify that the director's suggestions made regarding alleged violations is not a disciplinary action. The bill would require the bureau to adopt regulations categorizing violations of the act and its regulations and identifying a penalty, if any, for each violation category. The bill would define the terms "bona fide error,"~~

~~“customer,” and “fraud” for purposes of the act. The bill would make related changes define the term “customer” and correct an erroneous cross-reference in the act’s provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 9880.1 of the Business and Professions
- 2 Code is amended to read:
- 3 9880.1. The following terms as used in this chapter have the
- 4 meaning expressed in this section.
- 5 (a) “Automotive repair dealer” means a person who, for
- 6 compensation, engages in the business of repairing or diagnosing
- 7 malfunctions of motor vehicles.
- 8 (b) “Chief” means the Chief of the Bureau of Automotive
- 9 Repair.
- 10 (c) “Bureau” means the Bureau of Automotive Repair.
- 11 (d) “Motor vehicle” means a passenger vehicle required to be
- 12 registered with the Department of Motor Vehicles and all
- 13 motorcycles whether or not required to be registered by the
- 14 Department of Motor Vehicles.
- 15 (e) “Repair of motor vehicles” means all maintenance of and
- 16 repairs to motor vehicles performed by an automotive repair dealer
- 17 including automotive body repair work, but excluding those
- 18 repairs made pursuant to a commercial business agreement and
- 19 also excluding repairing tires, changing tires, lubricating vehicles,
- 20 installing light bulbs, batteries, windshield wiper blades and other
- 21 minor accessories, cleaning, adjusting, and replacing spark plugs,
- 22 replacing fan belts, oil, and air filters, and other minor services,
- 23 which the director, by regulation, determines are customarily
- 24 performed by gasoline service stations.
- 25 No service shall be designated as minor, for purposes of this
- 26 section, if the director finds that performance of the service
- 27 requires mechanical expertise, has given rise to a high incidence
- 28 of fraud or deceptive practices, or involves a part of the vehicle
- 29 essential to its safe operation.
- 30 (f) “Person” includes firm, partnership, association, limited
- 31 liability company, or corporation.



(g) An “automotive technician” is an employee of an automotive repair dealer or is that dealer, if the employer or dealer repairs motor vehicles and who for salary or wage performs maintenance, diagnostics, repair, removal, or installation of any integral component parts of an engine, driveline, chassis or body of any vehicle, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories; cleaning, replacing fan belts, oil and air filters; and other minor services which the director, by regulation, determines are customarily performed by a gasoline service station.

(h) “Director” means the Director of Consumer Affairs.

(i) “Commercial business agreement” means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automobile repair dealer, prior to the repair which is requested being made, which agreement contemplates a continuing business arrangement under which the automobile repair dealer is to repair any vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automobile repair facility to its customers.

~~(j) “Bona fide error” means an error made in good faith without fraud or deceit.~~

~~(k) “Customer” means the owner of a motor vehicle or a person designated by the owner to authorize the repair of the owner’s motor vehicle or to otherwise act on the owner’s behalf.~~

~~(l) “Fraud” means a statement, act, or omission by an automobile repair dealer made in connection with the repair of a motor vehicle that is intended to deceive a customer for the dealer’s material advantage.~~

~~(j) “Customer” means the owner of a motor vehicle or an adult member of the owner’s household.~~

~~SEC. 2. Section 9882 of the Business and Professions Code is amended to read:~~

~~9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director.~~

~~(b) The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to~~

1 carry out the purposes of this chapter and declaring the policy of  
2 the bureau, including a system for the issuance of citations for  
3 violations of this chapter as specified in Section 125.9.

4 (e) The bureau shall adopt regulations that classify a violation  
5 of this chapter and the regulations adopted under it. The  
6 classification system shall clearly distinguish technical violations  
7 from material violations and shall identify the penalty, if any, for  
8 each type of violation. Consideration shall be given to a  
9 classification system that distinguishes between technical,  
10 negligent, and willful violations.

11 (d) The rules and regulations under this section shall be adopted  
12 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
13 4 of Division 3 of Title 2 of the Government Code.

14 SEC. 3. Section 9882.5 of the Business and Professions Code  
15 is amended to read:

16 9882.5. The director shall on his or her own initiative or in  
17 response to complaints, investigate on a continuous basis and  
18 gather evidence of violations of this chapter and of any regulation  
19 adopted pursuant to this chapter, by any automotive repair dealer  
20 or automotive technician, whether registered or not, and by any  
21 employee, partner, officer, or member of any automotive repair  
22 dealer. The director shall establish procedures for accepting  
23 complaints from the public against any dealer or automotive  
24 technician. The director may suggest measures that, in the  
25 director's judgment, would compensate for any damages suffered  
26 as a result of an alleged violation. If the dealer accepts the  
27 suggestions and performs accordingly, such fact shall be given due  
28 consideration in any subsequent disciplinary proceeding. Any  
29 suggestion made pursuant to this section shall not be deemed to be  
30 or characterized as a disciplinary action.

31 SEC. 4. Section 9884.7 of the Business and Professions Code  
32 is amended to read:

33 9884.7. (a) The director, after affording the automotive  
34 repair dealer an opportunity to demonstrate there was a bona fide  
35 error and after finding no bona fide error occurred, may refuse to  
36 validate, or may invalidate temporarily or permanently, the  
37 registration of an automotive repair dealer for any of the following  
38 acts or omissions related to the conduct of the business of the  
39 automotive repair dealer, which are done by the automotive repair

1 dealer or any automotive technician, employee, partner, officer, or  
2 member of the automotive repair dealer:

3 (1) ~~Making or authorizing in any manner or by any means~~  
4 ~~whatever any statement written or oral, made with the intent to~~  
5 ~~deceive or gain advantage over a customer, which statement is~~  
6 ~~untrue or misleading, and which is known, or which by the~~  
7 ~~exercise of reasonable care should be known, to be untrue or~~  
8 ~~misleading.~~

9 (2) ~~Causing or allowing a customer to sign any work order that~~  
10 ~~does not state the repairs requested by the customer or the~~  
11 ~~automobile's odometer reading at the time of repair.~~

12 (3) ~~Failing or refusing to give to a customer a copy of any~~  
13 ~~document requiring his or her signature, as soon as the customer~~  
14 ~~signs the document.~~

15 (4) ~~Any conduct that constitutes fraud.~~

16 (5) ~~Conduct constituting gross negligence.~~

17 (6) ~~Willful failure in any material respect to comply with the~~  
18 ~~provisions of this chapter or regulations adopted pursuant to it.~~

19 (7) ~~Any willful departure from or disregard of accepted trade~~  
20 ~~standards for good and workmanlike repair in any material respect,~~  
21 ~~which is prejudicial to another without consent of the owner or his~~  
22 ~~or her duly authorized representative.~~

23 (8) ~~Making false promises of a character likely to influence,~~  
24 ~~persuade, or induce a customer to authorize the repair, service, or~~  
25 ~~maintenance of automobiles.~~

26 (9) ~~Having repair work done by someone other than the dealer~~  
27 ~~or his or her employees without the knowledge or consent of the~~  
28 ~~customer unless the dealer can demonstrate that the customer~~  
29 ~~could not reasonably have been notified.~~

30 (10) ~~Conviction of a violation of Section 551 of the Penal Code.~~

31 (b) ~~Upon refusal to validate a registration, the director shall~~  
32 ~~notify the applicant thereof, in writing, by personal service or mail~~  
33 ~~addressed to the address of the applicant set forth in the~~  
34 ~~application, and the applicant shall be given a hearing under~~  
35 ~~Section 9884.12 if, within 30 days thereafter, he or she files with~~  
36 ~~the bureau a written request for hearing, otherwise the refusal is~~  
37 ~~deemed affirmed.~~

38 (c) ~~Except as provided for in subdivision (d), if an automotive~~  
39 ~~repair dealer operates more than one place of business in this state,~~  
40 ~~the director pursuant to subdivision (a) shall only refuse to~~

1 ~~validate, or shall only invalidate temporarily or permanently the~~  
2 ~~registration of the specific place of business that has violated any~~  
3 ~~of the provisions of this chapter. This violation, or action by the~~  
4 ~~director, shall not affect in any manner the right of the automotive~~  
5 ~~repair dealer to operate his or her other places of business.~~

6 ~~(d) Notwithstanding subdivision (c), the director may refuse to~~  
7 ~~validate, or may invalidate temporarily or permanently, the~~  
8 ~~registration for all places of business operated in this state by an~~  
9 ~~automotive repair dealer upon a finding that the automotive repair~~  
10 ~~dealer has, or is, engaged in a course of repeated and willful~~  
11 ~~violations of this chapter, or regulations adopted pursuant to it.~~

12 *SEC. 2. Section 9882 of the Business and Professions Code is*  
13 *amended to read:*

14 9882. There is in the Department of Consumer Affairs a  
15 Bureau of Automotive Repair under the supervision and control of  
16 the director. The duty of enforcing and administering this chapter  
17 is vested in the chief who is responsible to the director. The director  
18 may adopt and enforce those rules and regulations that he or she  
19 determines are reasonably necessary to carry out the purposes of  
20 this chapter and declaring the policy of the bureau, including a  
21 system for the issuance of citations for violations of this chapter  
22 as specified in Section 125.9. These rules and regulations shall be  
23 adopted pursuant to Chapter ~~4.5~~ 3.5 (commencing with Section  
24 ~~41374~~ 11340) of Part 1 of Division 3 of Title 2 of the Government  
25 Code.